

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Antonio Lamar Nelson,)	C/A No. 9:07-3974-JFA-BM
)	
Plaintiff,)	
vs.)	
)	ORDER
Officer C. Marshall and Officer Melron)	
Kelly,)	
)	
Defendants.)	

The *pro se* plaintiff, Antonio Lamar Nelson, brings this action pursuant to 42 U.S.C. § 1983.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that this action should be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. In addition, the Magistrate Judge has considered the Fourth Circuit's four-prong test² in determining his recommendation that the action should be dismissed. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

² *Davis v. Williams*, 588 F.2d 69 (4th Cir. 1978); *see also Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989); and *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982).

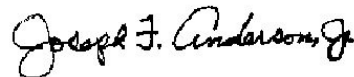
a recitation.

The Magistrate Judge notes that on August 19, 2010, a notice of case reassignment was mailed to the plaintiff, but it was returned to sender. Another order was entered on September 15, 2010 providing the plaintiff with an opportunity to advise the court whether he wished to continue to prosecute this case. The plaintiff failed to respond to that order.

The plaintiff was further advised of his right to file objections to the Report and Recommendation, which was entered on the docket on September 29, 2010. However, the plaintiff did not file any objections to the Report within the time limits prescribed.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation proper and incorporated herein by reference. Accordingly, this action is dismissed with prejudice for failure to prosecute under Rule 41(b).

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." The signature is written in a cursive, flowing style.

Joseph F. Anderson, Jr.
United States District Judge

October 22, 2010
Columbia, South Carolina